

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7600

Investigation into (1) whether Entergy Nuclear Vermont
Yankee, LLC, and Entergy Nuclear Operations, Inc.
(collectively, "Entergy VY"), should be required to cease
operations at the Vermont Yankee Nuclear Power Station,
or take other ameliorative actions, pending completion of
repairs to stop releases of radionuclides, radioactive
materials, and, potentially, other non-radioactive materials
into the environment; (2) whether good cause exists to
modify or revoke the 30 V.S.A. § 231 Certificate of Public
Good issued to Entergy VY; and (3) whether any penalties
should be imposed on Entergy VY for any identified
violations of Vermont statutes or Board orders related to
the releases

Order entered: 4/23/2010

ORDER RE POSTPONEMENT OF PUBLIC HEARING AND SITE VISIT

Introduction and Background

On April 22, 2010, the Windham Regional Commission ("WRC") submitted by e-mail a "Motion to Reschedule Public Hearing" in this docket.¹ The public hearing is currently scheduled for April 29, 2010. On that same date, the Public Service Board ("Board") issued a memorandum, and distributed it to the parties by e-mail, asking that comments on WRC's motion be submitted by noon on April 23, 2010. The Board's memorandum also asked parties to comment on whether the April 29, 2010, site visit should be rescheduled if the public hearing is rescheduled.

Responses to WRC's motion were filed by the Vermont Department of Public Service ("Department"), Conservation Law Foundation, the New England Coalition, Inc. ("NEC"), the Vermont Natural Resources Council, the Connecticut River Watershed Council, IBEW Local

1. A hard copy of WRC's motion was filed on April 23, 2010.

300, and Entergy Nuclear Vermont Yankee, LLC, and Entergy Nuclear Operations, Inc. (together "Entergy VY").

All of the parties either supported or did not object to WRC's motion, with the exception of IBEW Local 300. Most parties either supported or did not object to postponement of the site visit, with the exception of IBEW Local 300 and NEC.

For the reasons stated below, the Board has decided to postpone the public hearing, but will conduct the site visit on April 29, 2010, as scheduled.

Postponement of the Public Hearing

WRC contends that the public hearing should be postponed because (1) many additional workers will be present due to the refueling outage at the Vermont Yankee site, possibly presenting security, parking and traffic concerns, and possibly increasing the potential for confrontations between supporters and opponents; and (2) additional documentation will become available in the near future that may help inform the public and the parties with respect to issues in this proceeding. WRC further claims that it is "aware of no issues of pressing concern that would prohibit such a delay."

The Department supports postponement of the public hearing, stating:

A great deal of additional information is scheduled to come out in the next few weeks that would assist the public in focusing comments at the public hearing. Additionally, since the source of the leak of the contaminants has been determined and remediation is taking place, the speed that we initially required in this docket is no longer of such primary importance.

NEC does not oppose delay of the public hearing, noting:

WRC has raised legitimate issues regarding several reports that will be made available to the public just after the scheduled hearing. It appears to be prudent to hold public hearings after such information is made public, in order to provide an opportunity for participants to be fully informed.

Entergy VY supports WRC's motion. According to Entergy VY,

Entergy VY's refueling outage will more than double the worker population at Vermont Yankee Nuclear Power Station ("VY Station"). This increase in worker population poses logistical challenges with respect to security and traffic for the public hearing if it goes forward on

April 29 at the Vernon Elementary School, which is located directly across from the VY Station. Entergy VY concurs with WRC that there are no pressing concerns that necessitate the public hearing to be held next week during the refueling outage and urges the Board to reschedule the hearing.

The only party that opposes postponement of the public hearing, IBEW Local 300, provided no reasons to support its position.

We conclude that we should postpone the public hearing. As several of the parties note, additional information is scheduled to be made available in the near future. The public, the parties, and the Board itself, should benefit from the availability of this information in advance of the public hearing. We also are concerned about the possible logistical problems presented by the additional outage-related workers. While we have no basis to determine whether the additional workforce might in some way contribute to security issues, we are concerned about possible traffic and parking difficulties for the public hearing, given that our Vermont Yankee public hearings are typically well attended.

Therefore, we hereby postpone the public hearing. The public hearing will be rescheduled at a later date.²

Postponement of the Site Visit

The Department and Entergy VY support postponing the site visit, IBEW Local 300 and NEC oppose it, and the other parties take no position.

The Department supports postponement of the site visit to the same date as the to-be-rescheduled public hearing "for the sake of judicial economy." The Department also raises concerns about possible delays in entering and exiting the facility for the site visit, due to the hundreds of additional workers who would be on site.

Entergy VY asserts that if the public hearing is postponed, the site visit should be as well due to the same logistical concerns that the additional outage-related workforce presents for the public hearing. Entergy VY also agrees with the Department's observation that it would be more

2. WRC requested a postponement of "approximately one month." At this time we do not determine when the rescheduled public hearing will be held.

efficient for the Board and other participants to hold the site visit and public hearing on the same day.

NEC is "adamantly opposed to a rescheduling of the site visit." NEC contends that it has already scheduled its expert witnesses and consultants to attend the April 29 site visit, and altering travel schedules at this time would prove difficult. NEC further asserts:

More importantly, the excavated area adjacent to the AOG building that is the focus of the site visit may not remain open much longer. It is imperative that the parties and the Board visit the area of the leak prior to Entergy VY filling in, covering over and buttoning up the area that has been affected by the tritium leak, in order to observe and appreciate the scope of the affected area. Any further delay is unwarranted, and would be a detriment to the purpose of the site visit.

IBEW Local 300 states that it does not support delay of the site visit, but does not provide reasons for its position.

We conclude that the site visit will be held as scheduled, on April 29, 2010. We acknowledge the inconvenience to the parties, and to the Board itself, of the two separate trips that are necessitated by holding the site visit and the public hearing on different dates. However, as NEC notes, others (NEC's witnesses and consultants) would be inconvenienced by postponement of the site visit at this late date. The most significant reason for adhering to the currently scheduled date for the site visit, however, is that any material delay in the visit may render the visit less useful – perhaps substantially so – if the current excavation area is filled in the interim. Entergy VY, in its response to WRC's motion, represents that "Entergy VY has no plans at this time to fill the excavated area." While we appreciate this representation, we have no assurances that the area would not be filled by the time that a rescheduled site visit could be scheduled.³ Therefore, we are not postponing the April 29, 2010, site visit.

SO ORDERED.

3. Even if Entergy VY were to provide advance notice prior to filling the excavated area, we might not be able to schedule the public hearing and site visit in a sufficiently timely fashion given the difficulties that can arise in scheduling such events, including difficulty in finding open dates in the schedules of the Board members.

Dated at Montpelier, Vermont, this 23rd day of April, 2010.

<u>s/James Volz</u>)	
)	PUBLIC SERVICE
)	
<u>s/David C. Coen</u>)	BOARD
)	
)	OF VERMONT
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OFFICE OF THE CLERK

FILED: April 23, 2010

ATTEST: s/Judith C. Whitney
Deputy Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)